TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, ~~1891~~ 1903

No. ~~11~~, ORIGINAL.

THE STATE OF IOWA, COMPLAINANT,

vs.

THE STATE OF ILLINOIS.

IN EQUITY.

ON BILL AND CROSS-BILL.

FILED NOVEMBER 17, 1891.

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...ND & DETWEILER, PRINTERS, WASHINGTON, D. C., FEBRUARY 8, 1892.

1 Supreme Court of the United States, October Term, 1891.

At the Capitol of the United States, in the city of Washington and District of Columbia, being the present seat of the National Government of the United States, on the second Monday of October (being the twelfth day of the same month), in the year of our Lord one thousand eight hundred and ninety-one, and of the Independence of the United States the one hundred and sixteenth, the Supreme Court of the United States met agreeably to law.

And afterwards, to wit, on the 17th day of November, A. D. 1891, a motion for leave was filed in the words and figures following, viz:

2 In the Supreme Court of the United States.

THE STATE OF IOWA, Complainant,
vs.
THE STATE OF ILLINOIS, Defendant.

Motion for Leave.

Comes now Jno. Y. Stone, att'y gen'l of the State of Iowa, — for leave to file the following papers in the foregoing-entitled cause, those filed by the State of Illinois being at the request of the att'y gen'l of that State:

1. Bill of complaint of the State of Iowa.
2. Answer of the State of Illinois.
3. Cross-bill of the State of Illinois.
4. Reply of the State of Iowa.
5. Answer of Iowa to respondent's cross-bill.

And it is further moved that, inasmuch as this is a suit to determine a boundary between two States, involving questions relating to taxation and the collection of revenue between States, it be advanced for hearing at an early day, both parties appearing and consenting thereto, as shown in the bills and answers herein.

JNO. Y. STONE,
Att'y Gen'l of Iowa.

(Endorsed:) Supreme Court U. S. 1891, October term. No. 11, original. The State of Iowa, complainant, *vs.* The State of Illinois.

3 *Motion for Leave to File Bill, Answer, Cross-Bill, Answer to Cross-Bill, & Replication & to Assign Cause for Argument. Filed Nov'r* 17, 1891.

4 And on the same day, to wit, on the 17th day of November, A. D. 1891, the following entry appears of record, viz:

THE STATE OF IOWA, Complainant,
vs.
THE STATE OF ILLINOIS. } 11, Original.

On motion of Mr. John Y. Stone, of counsel for the complainant,

leave is hereby granted to file the bill of complaint, answer, cross-bill, answer to cross-bill, and replication of the complainant to answer of defendant herein.

Mr. Stone also submitted to the consideration of the court a motion to fix a day for the argument of the case.

5 And on the same day, to wit, on the 17th day of November, A. D. 1891, an appearance of counsel for the complainant was filed in the words and figures following, viz:

6 Supreme Court of the United States, October Term, 1891.

THE STATE OF IOWA, Complainant,
vs.
THE STATE OF ILLINOIS. } No. 11, Orig'l.

The clerk will enter my appearance as counsel for the complainant.

JNO. Y. STONE,
Att'y Gen'l of Iowa.

☞NOTE.—Must be signed by a member of the bar of Supreme Court United States. Individual and not firm names must be signed.

(Endorsed:) Supreme Court U. S., October term, 1891. No. 11, original. Appearance for compl't. Filed Nov. 17, 1891.

7 And on the same day, to wit, on the 17th day of November, A. D. 1891, a bill of complaint was filed in the words and figures following, viz:

8 In the Supreme Court of the United States.

THE STATE OF IOWA, Complainant,
vs.
THE STATE OF ILLINOIS, Defendant. } Equity. Bill to Establish Boundary.

To the judges of the Supreme Court of the United States:

Par. 1. Complainant, The State of Iowa, by its attorney general, complaining, shows to this honorable court that said State of Iowa is one of the States comprising the United States of America, and said State of Illinois is another of said States.

Par. 2. That prior to the treaty between England, France, and Spain, in 1763, and at the time of said treaty the territory now comprising the State of Iowa was under the dominion of France, and the territory now comprising the State of Illinois was under the dominion of England (Great Britain); that by that treaty the middle of the river Mississippi was made the boundary lines between the British and French possessions in North America.

Par. 3. That by the treaty of Paris, between Great Britain and the United States, the territory comprising the State of Illinois passed to the United States, and by the purchase of the Louisiana Territory

by the United States from France the territory comprising the State of Iowa passed to the United States.

9 Par. 4. That the boundary between the territory comprising the States of Illinois & Iowa remained the middle of the river Mississippi, as fixed by said treaty of 1763.

Par. 5. That by the act of Congress of April 18th, 1818, known as the act "enabling the people of Illinois to form a State constitution," the northern and western boundaries of Illinois *is* defined as follows: Starting in the middle of Lake Michigan at north latitude 42° 30', "thence west to the middle of the Mississippi river and thence down along the middle of that river to its confluence with the Ohio river," and the constitutions of Illinois of 1818, 1848, and 1870 define said boundaries the same; yet said State of Illinois and its several municipalities bordering on said Mississippi river claim the right to and do assess and tax as in Illinois all bridges and other structures in said river from the Illinois shore to the middle of the steamboat channel or channel of said river usually traversed by steam and other crafts in carrying the commerce of said river regardless of whether said channel is east or west of the middle of the main body or arm of said river; that said authorities in Illinois value, assess, and tax as in Illinois the bridge of the Keokuk & Hamilton Bridge Company across said river from Keokuk, Iowa, to Island No. 4, in section 30, T. 5 N., R. 8 W., in Hancock county, Illinois, from the west shore of said island westward 2,462 feet to the east end

10 of the draw of said bridge, and to a point not over 580 feet east from the Iowa shore of said river, and to a point 941 feet west of the middle of said main arm or body of said river at that point.

Par. 6. That the steamboat channel, or channel of the river where boats ordinarily run in carrying the commerce of the river, varies from side to side of said river, sometimes next to the Illinois shore and then next to the Iowa shore, and at other times crosswise, at most points in said river shifting from place to place as the sands of its bed are changed by the current at every stage of change of water; that at the point of the Keokuk & Hamilton bridge the river bed is rock and not subject to much change; that at that point, were it not for the bridge, the middle of the steamboat channel would be, and was before said bridge was erected, fully 300 feet east of the east end of the draw in said bridge, or 880 feet from the Iowa shore of said river and 2,162 feet from the shore of said river in Illinois on Island No. 4; that at places in said river there are two or more channels equally accessible and useful for the navigation of said river by steamboats and other crafts carrying the commerce of said river; that at said Keokuk & Hamilton bridge the channel used by steamboats is partly artificial, constructed by excavation of rock from the river bed to facilitate the approach to the lock of the U. S. canal immediately north from the bridge.

11 Par. 7. That the State of Iowa claims the right to tax all bridges across said river to the middle thereof, and, as of right it may do, taxes said Keokuk & Hamilton bridge to the middle thereof between the east and west abutments of said bridge—that

is, the west approach and abutment 200 feet and 1,096 feet of the bridge proper—thereby treating, for convenience of taxation, the middle of said bridge between abutments as the middle of said river at that point, but really 225 — less than one-half the distance across the main arm or body of said river at that point.

Par. 8. That the State of Illinois and its municipalities value, assess, and tax as in Illinois 716 feet of said bridge actually assessed and taxed in Iowa, and 225 feet of said bridge in addition thereto located in Iowa, but not taxed in said State of Iowa.

Par. 9. That the Keokuk & Hamilton Bridge Company, owner of said Keokuk and Hamilton bridge, is a corporation of both said States consolidated and complains of such double taxation.

Par. 10. That litigation is now pending over such taxation and is liable at any time to arise over the taxation of any of the other bridges across said river between said States, now numbering nine.

Par. 11. To the end that the line between said States be definitely fixed by the only court having jurisdiction to do so, your
12 oratrix prays that this court take jurisdiction of this bill; that the State of Illinois be summoned and requested to answer this bill, waiving such answer being on oath, and the cause be advanced to an early hearing, and upon final hearing definitely settle the boundary between said States at said several bridges; and for such other relief as shall appear equitable.

And as in duty bound will ever pray, &c.

JNO. Y. STONE,
Att'y Gen'l of Iowa, for Complainant.

JAMES C. DAVIS, *Of Counsel.*

(Endorsed:) Supreme Court U. S. 1891, October term. No. 11, original. The State of Iowa, complainant, *vs.* The State of Illinois. Bill of complaint. Filed Nov. 17, 1891.

13 And on the same day, to wit, on the 17th day of November, A. D. 1891, an answer was filed in the words and figures following, viz:

14 In the Supreme Court of the United States.

THE STATE OF IOWA, Complainant,
vs.
THE STATE OF ILLINOIS, Defendant. } Bill to Establish Boundary.

Answer of the State of Illinois to said Bill.

The State of Illinois, by George Hunt, its attorney general, for answer to the bill filed herein by the State of Iowa, or so much thereof as it is advised to answer, answering, says:

Respondent admits the statements in said bill contained in the first, second, third, fourth, and fifth paragraphs thereof.

Respondent denies that the boundary lines between said States of Iowa and Illinois is the middle of the Mississippi river, but insists

is the middle of the steamboat channel or channel most commonly used by boats in carrying the commerce of said river, whether at or east or west of the middle of said river; admits that the State and municipalities in the State of Illinois claim the right to and do tax bridge and other structures in said river to the middle of such steamboat channel or channel of commerce, regardless of whether such channel is east or west of the middle of the main body or arm of said river, and do value, assess, and tax the Keokuk & Hamilton bridge to the draw and considerably west of the middle of
15 the main body or arm of said river, but the exact distance from either shore this respondent is unable to state.

Admits the steamboat channel or channel of commerce of said river is first near one shore and then near the other, and at other places nearly across the river.

Denies that the middle of the steamboat channel or channel of commerce of said river at said Keokuk & Hamilton bridge is east of the east end of the draw of said bridge.

Denies the right of the State of Iowa to tax said Keokuk & Hamilton bridge to any point thereof east of the east end of the draw thereof or any other bridge east of the middle of the steamboat channel or channel of commerce of said river, though such channel may be largely west of the middle of the main body or arm of said river.

Admits the statements of paragraphs 9 of said bill.

And now, having fully answered said bill, prays that this cause be advanced and the line between said States be established and respondent be discharged with its reasonable costs, &c.

And as in duty bound will ever pray, &c.

GEO. HUNT,
Attorney General State of Illinois, for Defendant.

(Endorsed:) Supreme Court U. S. 1891, October term.
16 No. 11, original. The State of Iowa, complainant, *vs.* The State of Illinois. Answer to bill of complaint. Filed Nov. 17, 1891.

17 And on the same day, to wit, on the 17th day of November, A. D. 1891, a replication was filed in the words and figures following, viz:

18 In the Supreme Court of the United States.

THE STATE OF IOWA
v.
THE STATE OF ILLINOIS. } Equity. Bill to Establish Boundary.

Replication to Answer of Defendant.

The State of Iowa, by its attorney general, John Y. Stone, for replication to the answer of the defendant, The State of Illinois, says that the statements in said answer, so far as the same travers- or

deny the statements in complainant's bill, are not true, and that the statements in said complainant's bill are true.

JNO. Y. STONE,
Att'y Gen'l of Iowa.

JAMES C. DAVIS, *Of Counsel.*

(Endorsed:) Supreme Court U. S. 1891, October Term. No. 11, original. The State of Iowa, complainant, *vs.* The State of Illinois. Replication of the State of Iowa. Filed Nov. 17, 1891.

19 And on the same day, to wit, on the 17th day of November, A. D. 1891, a cross-bill was filed in the words and figures following, viz:

20 In the Supreme Court of the United States.

THE STATE OF IOWA
v.
THE STATE OF ILLINOIS. } Bill to Establish Boundary. Equity.

THE STATE OF ILLINOIS
vs.
THE STATE OF IOWA. } Equity. Cross-Bill to Establish Boundary.

Par. 1. Complainant in the cross-bill, The State of Illinois, having answered the bill of complaint filed herein by The State of Iowa, files this cross-bill of complaint against The State of Iowa in this the Supreme Court of the United States to define the boundary lines between the States of Illinois and Iowa at the several bridges across the Mississippi river and the extent to which each State and its municipalities may tax said bridges respectively, and shows to this honorable court that there now exists nine bridges across said river between said States, the most southern of which is the Keokuk & Hamilton Bridge Company's railroad and wagon bridge, and the most northern of which is the Dunlieth & Dubuque Bridge Company's railroad bridge.

Par. 2. That for the purposes of taxation the State of Illinois and its municipalities claim the right to assess and tax said respective bridges to the middle of the channel of commerce or steamboat channel—that is, the channel usually used by steamboats
21 and other crafts navigating said river; that on the part of the State of Iowa and its municipalities it is claimed that each State has the right to assess and tax to the middle of the main arm or body of the said river, regardless of where the channel of commerce or steamboat channel—that is, that part of the river usually traversed by steam or other vessels carrying the commerce of said river—may be.

Par. 3. That the supreme court of the State of Iowa, in case of the Dunlieth & Dubuque Bridge Company *vs.* The County of Dubuque, 55 Iowa, 558, 564, hold the authorities in Iowa have the right to tax such structures to the middle of the main arm or body of the stream and no further, though at the point where such structure is

situated the channel or part of the river followed by steamboat-men in navigating the river is far east of the middle of such main body of the stream.

Par. 4. That, following the decision in that case, the authorities in Iowa assess and tax such structures to the middle of the main body of said river.

Par. 5. That at the point of the location of the said Keokuk & Hamilton bridge the main body of the said river, before the construction of said bridge, was between the Iowa shore at Keokuk, Lee county, Iowa, and the west shore of Island No. 4, in section 30, township 5 north, range 8 west, located in the city of Hamil-
22 ton, town of Montebello, Hancock county, Illinois, a breadth of about 3,042 feet; that in constructing said bridge a solid approach is extended from the shore at Keokuk into the river 200 feet, and from said shore on Island No. 4, in Illinois, about 700 feet, and the main body of said river confined between the abutments to said bridge 2,192 feet apart, and said bridge consists of said east and west abutments, eleven piers, a draw next to the west or Iowa abutment of 380 feet and 10 spans, together 1,812 feet.

Par. 6. That the middle of the steamboat channel, or that part of the river usually traversed by steamboat-men in navigating said river, is at or near the east end of said draw or pivot span, about 380 feet from the west abutment and 1,812 feet from the east abutment.

Par. 7. That the assessor in Illinois in assessing said bridge values the bridge to the east end of said draw and assesses the same against that part of said bridge in Illinois, and the authorities in Iowa value and assess said bridge to the middle thereof, 1,096 feet east from the west abutment, as in the State of Iowa; that thereby 716 feet of said bridge is valued and assessed both in Illinois and Iowa; that litigation is now pending in the lower courts between said bridge company and the authorities over said assessments.

Par. 8. That the same trouble and complications are liable to arise over the assessment of any other of said bridges.

23 Par. 9. No other court having jurisdiction to settle in an authoritative way the extent to which said bridge structures can be legally assessed and taxed, and to the end that the boundary lines between the States of Illinois and Iowa at said several bridges may be defined and settled, the State of Illinois prays that the State of Iowa be made defendant to this bill and summoned and required to answer this bill, and that upon the final hearing this court define and establish at each of said bridges the boundary lines between the States of Illinois and Iowa, to which points the respective States may tax.

Par. 10. That as this matter relates to the revenue and is of great public importance, that the same be advanced on the docket and heard at the earliest practicable day, to the end that the revenue may be collected without delays by litigation our such right to tax.

And as is duly bound complainant will ever pray, etc.

GEO. HUNT,

Attorney General State of Illinois, for Complainant in Cross-Bill.

(Endorsed:) Supreme Court U. S. 1891, October term. No. 11, original. The State of Iowa, complainant, *vs.* The State of Illinois. Cross-bill of the State of Illinois. Filed Nov. 17, 1891.

24 And on the same day, to wit, on the 17th day of November, A. D. 1891, an answer to cross-bill was filed in the words and figures following, viz:

25 In the Supreme Court of the United States.

THE STATE OF IOWA *v.* THE STATE OF ILLINOIS.	Equity. Bill to Establish Boundary.
THE STATE OF ILLINOIS, Complainant, *vs.* THE STATE OF IOWA, Defendant.	Equity. Cross-Bill to Establish Boundary.

Answer of Defendant to the Cross-Bill.

Respondent, The State of Iowa, by John Y. Stone, its attorney general, for answer to the cross-bill of complaint filed herein, or so much thereof as it is advised is necessary to answer, answering, says:

Par. 1. Admit- that there now exist nine bridges across the Mississippi river where it forms the boundary between said States of Illinois and Iowa, the most southerly of which is the bridge of the Keokuk & Hamilton Bridge Company, and the most northerly is the bridge of the Dunlieth & Dubuque Bridge Company.

Par. 2. Admit- that said State of Illinois and its several municipalities bordering on said river claim the right to tax said bridges from the Illinois shore of said river to the middle of the channel of commerce or steamboat channel—that is, the channel usually used by steamboats and other crafts in navigating said river—and that this respondent, The State of Iowa, and its several municipalities bordering on said river claim the right to and do tax said several bridges to the middle of the main arm or body of said river, regardless of where the channel of commerce or steamboat channel—that is, that part of said river usually traversed by steam or other vessels carrying the commerce of said river—may be.

26

Par. 3. Respondent denies the right of the State of Illinois or any of its municipalities to tax any of said bridges or any other structure in said river west of or on the Iowa side of the middle of the main arm or body of said river.

Par. 4. Respondent admits as true the statements in said cross-bill contained in paragraph five thereof.

Par. 5. Respondent denies the statements of paragraph six of said cross-bill as stated, but admits that prior to the construction of the Keokuk & Hamilton bridge aforesaid the middle of the steamboat channel, or that part of the river at that point usually traversed by steamboat-men in navigating said river, was and now is considerably

west of the middle of the main arm or body of said river; the exact distance respondent is unable to state, but is informed and believes about 960 feet east of the Iowa shore of said river and about 2,082 feet from the Illinois shore on Island No. 4, in said bill mentioned.

Par. 6. Respondent is informed and believes that the State of Illinois and its municipalities, in which the east end of said
27 Keokuk & Hamilton bridge is situated, assess and tax as in Illinois fully 716 feet of said bridge, which is located in Iowa and taxed by the authorities in Iowa.

Par. 7. Respondent admits the statements of paragraph seven of said cross-bill.

Par. 1. Respondent admits the statements of paragraph eight of said cross-bill.

Par. 2. And now, having fully answered said cross-bill, prays that this suit be advanced, and that upon the final hearing said boundary may be established.

And as in duty bound will ever pray, &c.

JNO. Y. STONE,
Att'y Gen'l of Iowa.

JAMES C. DAVIS, *Of Counsel.*

(Endorsed:) Supreme Court U. S. 1891, October term. No. 11, original. The State of Iowa, complainant, *vs.* The State of Illinois. Answer of State of Iowa to cross-bill of State of Illinois. Filed Nov. 17, 1891.